

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

ANDREA TURNER,

on behalf of herself and all others similarly
situated,

Plaintiffs,

v.

SWEETWATER FRANCHISE GROUP,
LLC and ALFORD, HOLLOWAY, &
SMITH, PLLC,

Defendants.

Case No.: 5:23-cv-74-DCB-BWR

**DEFENDANT ALFORD, HOLLOWAY,
& SMITH, PLLC’S RENEWED
MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

Defendant Alford, Holloway, & Smith, PLLC (“AHS”), pursuant to Fed. R. Civ. P. 12(b)(1) and (h)(3), moves for an order of the Court dismissing the Amended Class Action Complaint for lack of subject matter jurisdiction. Plaintiff has now dismissed Sweetwater Franchise Group, LLC (on October 13, 2023) and the sole remaining defendant is AHS, a Mississippi limited liability company. The basis for subject matter jurisdiction is the Class Action Fairness Act, 28 U.S.C. § 1332(d). While Plaintiff alleges that the statute is satisfied as she asserts there are more than 100 putative class members and \$5 million or more at stake, the Court nevertheless must decline jurisdiction in this matter. Under the “home state controversy” exception, 28 U.S.C. § 1332(d)(4)(B), when the only defendant is a resident of the state where the case is pending and more than two-thirds of the putative class also reside in the state, then the Court cannot proceed. In addition to the contemporaneously filed Memorandum in Support of Motion to Dismiss, Defendant relies on the following exhibits attached hereto: 1) the Declaration

of Andrew Grice attached as Exhibit A; 2) Plaintiff's responses to AHS's First Set of Requests for Production and First Set of Interrogatories, collectively attached as Exhibit B; 3) the 2019 Geographical Mobility report attached as Exhibit C; 4) the 2021 Geographical Mobility report attached as Exhibit D; and 5) the 2022 Geographical Mobility report attached as Exhibit E.

For the reasons set forth in the accompanying Memorandum in Support and the exhibits to this Motion, the Court should decline to exercise subject matter jurisdiction and dismiss the lawsuit.

WHEREFORE, Defendant Alford, Holloway, & Smith PLLC requests that the Court dismiss the Complaint and for such other relief as the court deems just and equitable.

Dated this 26th day of August, 2024.

s/ Drury S. Holland

James G. Wyly, III (MS Bar No. 7415)

Drury S. Holland (MS Bar No. 104371)

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CERTIFICATE OF SERVICE

I hereby certify that on this day I caused the foregoing to be electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to the following counsel of record:

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This, the 26th day of August, 2024.

s/ Drury S. Holland